

RUBIN, FIORELLA & FRIEDMAN LLP  
James E. Mercante  
Richard González  
630 Third Avenue, 3<sup>rd</sup> Floor  
New York, NY 10017  
(212) 953-2381  
*Attorneys for Movant,  
International Marine Underwriters*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
IN THE MATTER OF THE COMPLAINT,

Civil Action No.: 12-cv-5838 (BSJ)

of

DANIEL FLORIO, as owner of the motor  
yacht "CAROLE JAYE", for Exoneration  
from or Limitation of Liability

**NOTICE OF MOTION TO DISMISS  
COMPLAINT DUE TO LACK OF  
SUBJECT MATTER JURISDICTION**

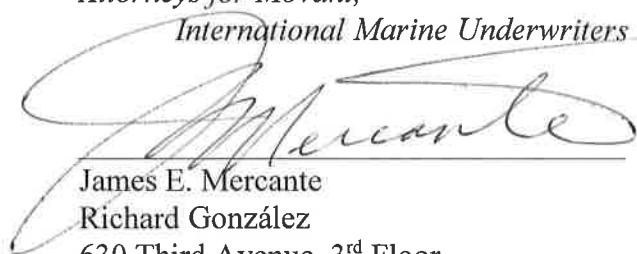
Petitioner.

PLEASE TAKE NOTICE that the undersigned attorneys for Movant, International Marine Underwriters, will apply to the Honorable United States District Judge Barbara S. Jones, of the United States District Court, Southern District of New York, at the Daniel Patrick Moynihan, United States Courthouse, 500 Pearl Street, New York, New York 10007-1312, for an Order granting its Motion Dismissing the Complaint of DANIEL FLORIO, as owner of the motor yacht "CAROLE JAYE", for Exoneration from or Limitation of Liability, pursuant to Rule 12 (b)(1) of the Federal Rules of Civil Procedure.

PLEASE TAKE FURTHER NOTICE that the Claimant will rely upon the annexed Memorandum of Law, and all papers and proceedings filed to date.

Dated: September 25, 2012  
New York, New York

RUBIN, FIORELLA & FRIEDMAN LLP  
*Attorneys for Movant,*  
*International Marine Underwriters*

A large, stylized handwritten signature in dark ink, appearing to read 'J. Mercante', is written over a horizontal line.

James E. Mercante  
Richard González  
630 Third Avenue, 3<sup>rd</sup> Floor  
New York, NY 10017  
Ph: 212-953-2381  
Fax: 212-953-2462  
E-Mail: [jmercante@rubinfiorella.com](mailto:jmercante@rubinfiorella.com)  
E-Mail: [rgonzalez@rubinfiorella.com](mailto:rgonzalez@rubinfiorella.com)  
Our File No.: 174.25137

To:

John T. Lillis, Jr.  
Kennedy Lillis Schmidt & English  
75 Maiden Lane, Suite 401  
New York, NY 10038  
*Attorneys for Petitioner,*  
*Daniel Florio*

**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK     )  
  ) ss.:  
COUNTY OF NEW YORK    )

BELINDA LOPEZ, being duly sworn, says:

I am not a party to this action; I am over 18 years of age; I reside at Keansburg, New Jersey.


On September 25, 2012, I served the within **NOTICE OF MOTION TO DISMISS COMPLAINT DUE TO LACK OF SUBJECT MATTER JURISDICTION**, upon:

John T. Lillis, Jr.  
Kennedy Lillis Schmidt & English  
75 Maiden Lane, Suite 401  
New York, NY 10038  
*Attorneys for Petitioner,*  
*Daniel Florio*

the address designated by said attorneys for that purpose by depositing a true copy of same enclosed in a postpaid, properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

  
BELINDA LOPEZ

Sworn to before me this  
25<sup>th</sup> day of September, 2012

  
Notary Public

Our File No. 174.25137

SUSAN RYAN  
Notary Public, State of New York  
No. 43-4912244  
Qualified in Richmond County  
Commission Expires November 9, 2013